



Rep. Mary E. Flowers

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1 AMENDMENT TO HOUSE BILL 4495

2 AMENDMENT NO. _____. Amend House Bill 4495, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Children and Family Services Act is amended
6 by changing Section 5 as follows:

7 (20 ILCS 505/5) (from Ch. 23, par. 5005)

8 Sec. 5. Direct child welfare services; Department of
9 Children and Family Services. To provide direct child welfare
10 services when not available through other public or private
11 child care or program facilities.

12 (a) For purposes of this Section:

13 (1) "Children" means persons found within the State who
14 are under the age of 18 years. The term also includes
15 persons under age 21 who:

16 (A) were committed to the Department pursuant to

1 the Juvenile Court Act or the Juvenile Court Act of
2 1987, as amended, prior to the age of 18 and who
3 continue under the jurisdiction of the court; or

4 (B) were accepted for care, service and training by
5 the Department prior to the age of 18 and whose best
6 interest in the discretion of the Department would be
7 served by continuing that care, service and training
8 because of severe emotional disturbances, physical
9 disability, social adjustment or any combination
10 thereof, or because of the need to complete an
11 educational or vocational training program.

12 (2) "Homeless youth" means persons found within the
13 State who are under the age of 19, are not in a safe and
14 stable living situation and cannot be reunited with their
15 families.

16 (3) "Child welfare services" means public social
17 services which are directed toward the accomplishment of
18 the following purposes:

19 (A) protecting and promoting the health, safety
20 and welfare of children, including homeless, dependent
21 or neglected children;

22 (B) remedying, or assisting in the solution of
23 problems which may result in, the neglect, abuse,
24 exploitation or delinquency of children;

25 (C) preventing the unnecessary separation of
26 children from their families by identifying family

1 problems, assisting families in resolving their
2 problems, and preventing the breakup of the family
3 where the prevention of child removal is desirable and
4 possible when the child can be cared for at home
5 without endangering the child's health and safety;

6 (D) restoring to their families children who have
7 been removed, by the provision of services to the child
8 and the families when the child can be cared for at
9 home without endangering the child's health and
10 safety;

11 (E) placing children in suitable adoptive homes,
12 in cases where restoration to the biological family is
13 not safe, possible or appropriate;

14 (F) assuring safe and adequate care of children
15 away from their homes, in cases where the child cannot
16 be returned home or cannot be placed for adoption. At
17 the time of placement, the Department shall consider
18 concurrent planning, as described in subsection (1-1)
19 of this Section so that permanency may occur at the
20 earliest opportunity. Consideration should be given so
21 that if reunification fails or is delayed, the
22 placement made is the best available placement to
23 provide permanency for the child;

24 (G) (blank);

25 (H) (blank); and

26 (I) placing and maintaining children in facilities

1 that provide separate living quarters for children
2 under the age of 18 and for children 18 years of age
3 and older, unless a child 18 years of age is in the
4 last year of high school education or vocational
5 training, in an approved individual or group treatment
6 program, in a licensed shelter facility, or secure
7 child care facility. The Department is not required to
8 place or maintain children:

9 (i) who are in a foster home, or

10 (ii) who are persons with a developmental
11 disability, as defined in the Mental Health and
12 Developmental Disabilities Code, or

13 (iii) who are female children who are
14 pregnant, pregnant and parenting or parenting, or

15 (iv) who are siblings, in facilities that
16 provide separate living quarters for children 18
17 years of age and older and for children under 18
18 years of age.

19 (b) Nothing in this Section shall be construed to authorize
20 the expenditure of public funds for the purpose of performing
21 abortions.

22 (c) The Department shall establish and maintain
23 tax-supported child welfare services and extend and seek to
24 improve voluntary services throughout the State, to the end
25 that services and care shall be available on an equal basis
26 throughout the State to children requiring such services.

1 (d) The Director may authorize advance disbursements for
2 any new program initiative to any agency contracting with the
3 Department. As a prerequisite for an advance disbursement, the
4 contractor must post a surety bond in the amount of the advance
5 disbursement and have a purchase of service contract approved
6 by the Department. The Department may pay up to 2 months
7 operational expenses in advance. The amount of the advance
8 disbursement shall be prorated over the life of the contract or
9 the remaining months of the fiscal year, whichever is less, and
10 the installment amount shall then be deducted from future
11 bills. Advance disbursement authorizations for new initiatives
12 shall not be made to any agency after that agency has operated
13 during 2 consecutive fiscal years. The requirements of this
14 Section concerning advance disbursements shall not apply with
15 respect to the following: payments to local public agencies for
16 child day care services as authorized by Section 5a of this
17 Act; and youth service programs receiving grant funds under
18 Section 17a-4.

19 (e) (Blank).

20 (f) (Blank).

21 (g) The Department shall establish rules and regulations
22 concerning its operation of programs designed to meet the goals
23 of child safety and protection, family preservation, family
24 reunification, and adoption, including but not limited to:

25 (1) adoption;

26 (2) foster care;

- 1 (3) family counseling;
- 2 (4) protective services;
- 3 (5) (blank);
- 4 (6) homemaker service;
- 5 (7) return of runaway children;
- 6 (8) (blank);
- 7 (9) placement under Section 5-7 of the Juvenile Court
- 8 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile
- 9 Court Act of 1987 in accordance with the federal Adoption
- 10 Assistance and Child Welfare Act of 1980; and
- 11 (10) interstate services.

12 Rules and regulations established by the Department shall
13 include provisions for training Department staff and the staff
14 of Department grantees, through contracts with other agencies
15 or resources, in alcohol and drug abuse screening techniques
16 approved by the Department of Human Services, as a successor to
17 the Department of Alcoholism and Substance Abuse, for the
18 purpose of identifying children and adults who should be
19 referred to an alcohol and drug abuse treatment program for
20 professional evaluation.

21 (h) If the Department finds that there is no appropriate
22 program or facility within or available to the Department for a
23 ward and that no licensed private facility has an adequate and
24 appropriate program or none agrees to accept the ward, the
25 Department shall create an appropriate individualized,
26 program-oriented plan for such ward. The plan may be developed

1 within the Department or through purchase of services by the
2 Department to the extent that it is within its statutory
3 authority to do.

4 (i) Service programs shall be available throughout the
5 State and shall include but not be limited to the following
6 services:

- 7 (1) case management;
- 8 (2) homemakers;
- 9 (3) counseling;
- 10 (4) parent education;
- 11 (5) day care; and
- 12 (6) emergency assistance and advocacy.

13 In addition, the following services may be made available
14 to assess and meet the needs of children and families:

- 15 (1) comprehensive family-based services;
- 16 (2) assessments;
- 17 (3) respite care; and
- 18 (4) in-home health services.

19 The Department shall provide transportation for any of the
20 services it makes available to children or families or for
21 which it refers children or families.

22 (j) The Department may provide categories of financial
23 assistance and education assistance grants, and shall
24 establish rules and regulations concerning the assistance and
25 grants, to persons who adopt physically or mentally
26 handicapped, older and other hard-to-place children who (i)

1 immediately prior to their adoption were legal wards of the
2 Department or (ii) were determined eligible for financial
3 assistance with respect to a prior adoption and who become
4 available for adoption because the prior adoption has been
5 dissolved and the parental rights of the adoptive parents have
6 been terminated or because the child's adoptive parents have
7 died. The Department may continue to provide financial
8 assistance and education assistance grants for a child who was
9 determined eligible for financial assistance under this
10 subsection (j) in the interim period beginning when the child's
11 adoptive parents died and ending with the finalization of the
12 new adoption of the child by another adoptive parent or
13 parents. The Department may also provide categories of
14 financial assistance and education assistance grants, and
15 shall establish rules and regulations for the assistance and
16 grants, to persons appointed guardian of the person under
17 Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28,
18 4-25 or 5-740 of the Juvenile Court Act of 1987 for children
19 who were wards of the Department for 12 months immediately
20 prior to the appointment of the guardian.

21 The amount of assistance may vary, depending upon the needs
22 of the child and the adoptive parents, as set forth in the
23 annual assistance agreement. Special purpose grants are
24 allowed where the child requires special service but such costs
25 may not exceed the amounts which similar services would cost
26 the Department if it were to provide or secure them as guardian

1 of the child.

2 Any financial assistance provided under this subsection is
3 inalienable by assignment, sale, execution, attachment,
4 garnishment, or any other remedy for recovery or collection of
5 a judgment or debt.

6 (j-5) The Department shall not deny or delay the placement
7 of a child for adoption if an approved family is available
8 either outside of the Department region handling the case, or
9 outside of the State of Illinois.

10 (k) The Department shall accept for care and training any
11 child who has been adjudicated neglected or abused, or
12 dependent committed to it pursuant to the Juvenile Court Act or
13 the Juvenile Court Act of 1987.

14 (l) The Department shall offer family preservation
15 services, as defined in Section 8.2 of the Abused and Neglected
16 Child Reporting Act, to help families, including adoptive and
17 extended families. Family preservation services shall be
18 offered (i) to prevent the placement of children in substitute
19 care when the children can be cared for at home or in the
20 custody of the person responsible for the children's welfare,
21 (ii) to reunite children with their families, or (iii) to
22 maintain an adoptive placement. Family preservation services
23 shall only be offered when doing so will not endanger the
24 children's health or safety. With respect to children who are
25 in substitute care pursuant to the Juvenile Court Act of 1987,
26 family preservation services shall not be offered if a goal

1 other than those of subdivisions (A), (B), or (B-1) of
2 subsection (2) of Section 2-28 of that Act has been set.
3 Nothing in this paragraph shall be construed to create a
4 private right of action or claim on the part of any individual
5 or child welfare agency, except that when a child is the
6 subject of an action under Article II of the Juvenile Court Act
7 of 1987 and the child's service plan calls for services to
8 facilitate achievement of the permanency goal, the court
9 hearing the action under Article II of the Juvenile Court Act
10 of 1987 may order the Department to provide the services set
11 out in the plan, if those services are not provided with
12 reasonable promptness and if those services are available.

13 The Department shall notify the child and his family of the
14 Department's responsibility to offer and provide family
15 preservation services as identified in the service plan. The
16 child and his family shall be eligible for services as soon as
17 the report is determined to be "indicated". The Department may
18 offer services to any child or family with respect to whom a
19 report of suspected child abuse or neglect has been filed,
20 prior to concluding its investigation under Section 7.12 of the
21 Abused and Neglected Child Reporting Act. However, the child's
22 or family's willingness to accept services shall not be
23 considered in the investigation. The Department may also
24 provide services to any child or family who is the subject of
25 any report of suspected child abuse or neglect or may refer
26 such child or family to services available from other agencies

1 in the community, even if the report is determined to be
2 unfounded, if the conditions in the child's or family's home
3 are reasonably likely to subject the child or family to future
4 reports of suspected child abuse or neglect. Acceptance of such
5 services shall be voluntary. The Department may also provide
6 services to any child or family after completion of a family
7 assessment, as an alternative to an investigation, as provided
8 under the "differential response program" provided for in
9 subsection (a-5) of Section 7.4 of the Abused and Neglected
10 Child Reporting Act.

11 The Department may, at its discretion except for those
12 children also adjudicated neglected or dependent, accept for
13 care and training any child who has been adjudicated addicted,
14 as a truant minor in need of supervision or as a minor
15 requiring authoritative intervention, under the Juvenile Court
16 Act or the Juvenile Court Act of 1987, but no such child shall
17 be committed to the Department by any court without the
18 approval of the Department. A minor charged with a criminal
19 offense under the Criminal Code of 1961 or the Criminal Code of
20 2012 or adjudicated delinquent shall not be placed in the
21 custody of or committed to the Department by any court, except
22 (i) a minor less than 16 ~~15~~ years of age committed to the
23 Department under Section 5-710 of the Juvenile Court Act of
24 1987, (ii) a minor for whom an independent basis of abuse,
25 neglect, or dependency exists, which must be defined by
26 departmental rule, or (iii) a minor for whom the court has

1 granted a supplemental petition to reinstate wardship pursuant
2 to subsection (2) of Section 2-33 of the Juvenile Court Act of
3 1987. An independent basis exists when the allegations or
4 adjudication of abuse, neglect, or dependency do not arise from
5 the same facts, incident, or circumstances which give rise to a
6 charge or adjudication of delinquency.

7 As soon as is possible after August 7, 2009 (the effective
8 date of Public Act 96-134), the Department shall develop and
9 implement a special program of family preservation services to
10 support intact, foster, and adoptive families who are
11 experiencing extreme hardships due to the difficulty and stress
12 of caring for a child who has been diagnosed with a pervasive
13 developmental disorder if the Department determines that those
14 services are necessary to ensure the health and safety of the
15 child. The Department may offer services to any family whether
16 or not a report has been filed under the Abused and Neglected
17 Child Reporting Act. The Department may refer the child or
18 family to services available from other agencies in the
19 community if the conditions in the child's or family's home are
20 reasonably likely to subject the child or family to future
21 reports of suspected child abuse or neglect. Acceptance of
22 these services shall be voluntary. The Department shall develop
23 and implement a public information campaign to alert health and
24 social service providers and the general public about these
25 special family preservation services. The nature and scope of
26 the services offered and the number of families served under

1 the special program implemented under this paragraph shall be
2 determined by the level of funding that the Department annually
3 allocates for this purpose. The term "pervasive developmental
4 disorder" under this paragraph means a neurological condition,
5 including but not limited to, Asperger's Syndrome and autism,
6 as defined in the most recent edition of the Diagnostic and
7 Statistical Manual of Mental Disorders of the American
8 Psychiatric Association.

9 (1-1) The legislature recognizes that the best interests of
10 the child require that the child be placed in the most
11 permanent living arrangement as soon as is practically
12 possible. To achieve this goal, the legislature directs the
13 Department of Children and Family Services to conduct
14 concurrent planning so that permanency may occur at the
15 earliest opportunity. Permanent living arrangements may
16 include prevention of placement of a child outside the home of
17 the family when the child can be cared for at home without
18 endangering the child's health or safety; reunification with
19 the family, when safe and appropriate, if temporary placement
20 is necessary; or movement of the child toward the most
21 permanent living arrangement and permanent legal status.

22 When determining reasonable efforts to be made with respect
23 to a child, as described in this subsection, and in making such
24 reasonable efforts, the child's health and safety shall be the
25 paramount concern.

26 When a child is placed in foster care, the Department shall

1 ensure and document that reasonable efforts were made to
2 prevent or eliminate the need to remove the child from the
3 child's home. The Department must make reasonable efforts to
4 reunify the family when temporary placement of the child occurs
5 unless otherwise required, pursuant to the Juvenile Court Act
6 of 1987. At any time after the dispositional hearing where the
7 Department believes that further reunification services would
8 be ineffective, it may request a finding from the court that
9 reasonable efforts are no longer appropriate. The Department is
10 not required to provide further reunification services after
11 such a finding.

12 A decision to place a child in substitute care shall be
13 made with considerations of the child's health, safety, and
14 best interests. At the time of placement, consideration should
15 also be given so that if reunification fails or is delayed, the
16 placement made is the best available placement to provide
17 permanency for the child.

18 The Department shall adopt rules addressing concurrent
19 planning for reunification and permanency. The Department
20 shall consider the following factors when determining
21 appropriateness of concurrent planning:

22 (1) the likelihood of prompt reunification;

23 (2) the past history of the family;

24 (3) the barriers to reunification being addressed by
25 the family;

26 (4) the level of cooperation of the family;

1 (5) the foster parents' willingness to work with the
2 family to reunite;

3 (6) the willingness and ability of the foster family to
4 provide an adoptive home or long-term placement;

5 (7) the age of the child;

6 (8) placement of siblings.

7 (m) The Department may assume temporary custody of any
8 child if:

9 (1) it has received a written consent to such temporary
10 custody signed by the parents of the child or by the parent
11 having custody of the child if the parents are not living
12 together or by the guardian or custodian of the child if
13 the child is not in the custody of either parent, or

14 (2) the child is found in the State and neither a
15 parent, guardian nor custodian of the child can be located.

16 If the child is found in his or her residence without a parent,
17 guardian, custodian or responsible caretaker, the Department
18 may, instead of removing the child and assuming temporary
19 custody, place an authorized representative of the Department
20 in that residence until such time as a parent, guardian or
21 custodian enters the home and expresses a willingness and
22 apparent ability to ensure the child's health and safety and
23 resume permanent charge of the child, or until a relative
24 enters the home and is willing and able to ensure the child's
25 health and safety and assume charge of the child until a
26 parent, guardian or custodian enters the home and expresses

1 such willingness and ability to ensure the child's safety and
2 resume permanent charge. After a caretaker has remained in the
3 home for a period not to exceed 12 hours, the Department must
4 follow those procedures outlined in Section 2-9, 3-11, 4-8, or
5 5-415 of the Juvenile Court Act of 1987.

6 The Department shall have the authority, responsibilities
7 and duties that a legal custodian of the child would have
8 pursuant to subsection (9) of Section 1-3 of the Juvenile Court
9 Act of 1987. Whenever a child is taken into temporary custody
10 pursuant to an investigation under the Abused and Neglected
11 Child Reporting Act, or pursuant to a referral and acceptance
12 under the Juvenile Court Act of 1987 of a minor in limited
13 custody, the Department, during the period of temporary custody
14 and before the child is brought before a judicial officer as
15 required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile
16 Court Act of 1987, shall have the authority, responsibilities
17 and duties that a legal custodian of the child would have under
18 subsection (9) of Section 1-3 of the Juvenile Court Act of
19 1987.

20 The Department shall ensure that any child taken into
21 custody is scheduled for an appointment for a medical
22 examination.

23 A parent, guardian or custodian of a child in the temporary
24 custody of the Department who would have custody of the child
25 if he were not in the temporary custody of the Department may
26 deliver to the Department a signed request that the Department

1 surrender the temporary custody of the child. The Department
2 may retain temporary custody of the child for 10 days after the
3 receipt of the request, during which period the Department may
4 cause to be filed a petition pursuant to the Juvenile Court Act
5 of 1987. If a petition is so filed, the Department shall retain
6 temporary custody of the child until the court orders
7 otherwise. If a petition is not filed within the 10 day period,
8 the child shall be surrendered to the custody of the requesting
9 parent, guardian or custodian not later than the expiration of
10 the 10 day period, at which time the authority and duties of
11 the Department with respect to the temporary custody of the
12 child shall terminate.

13 (m-1) The Department may place children under 18 years of
14 age in a secure child care facility licensed by the Department
15 that cares for children who are in need of secure living
16 arrangements for their health, safety, and well-being after a
17 determination is made by the facility director and the Director
18 or the Director's designate prior to admission to the facility
19 subject to Section 2-27.1 of the Juvenile Court Act of 1987.
20 This subsection (m-1) does not apply to a child who is subject
21 to placement in a correctional facility operated pursuant to
22 Section 3-15-2 of the Unified Code of Corrections, unless the
23 child is a ward who was placed under the care of the Department
24 before being subject to placement in a correctional facility
25 and a court of competent jurisdiction has ordered placement of
26 the child in a secure care facility.

1 (n) The Department may place children under 18 years of age
2 in licensed child care facilities when in the opinion of the
3 Department, appropriate services aimed at family preservation
4 have been unsuccessful and cannot ensure the child's health and
5 safety or are unavailable and such placement would be for their
6 best interest. Payment for board, clothing, care, training and
7 supervision of any child placed in a licensed child care
8 facility may be made by the Department, by the parents or
9 guardians of the estates of those children, or by both the
10 Department and the parents or guardians, except that no
11 payments shall be made by the Department for any child placed
12 in a licensed child care facility for board, clothing, care,
13 training and supervision of such a child that exceed the
14 average per capita cost of maintaining and of caring for a
15 child in institutions for dependent or neglected children
16 operated by the Department. However, such restriction on
17 payments does not apply in cases where children require
18 specialized care and treatment for problems of severe emotional
19 disturbance, physical disability, social adjustment, or any
20 combination thereof and suitable facilities for the placement
21 of such children are not available at payment rates within the
22 limitations set forth in this Section. All reimbursements for
23 services delivered shall be absolutely inalienable by
24 assignment, sale, attachment, garnishment or otherwise.

25 (n-1) The Department shall provide or authorize child
26 welfare services, aimed at assisting minors to achieve

1 sustainable self-sufficiency as independent adults, for any
2 minor eligible for the reinstatement of wardship pursuant to
3 subsection (2) of Section 2-33 of the Juvenile Court Act of
4 1987, whether or not such reinstatement is sought or allowed,
5 provided that the minor consents to such services and has not
6 yet attained the age of 21. The Department shall have
7 responsibility for the development and delivery of services
8 under this Section. An eligible youth may access services under
9 this Section through the Department of Children and Family
10 Services or by referral from the Department of Human Services.
11 Youth participating in services under this Section shall
12 cooperate with the assigned case manager in developing an
13 agreement identifying the services to be provided and how the
14 youth will increase skills to achieve self-sufficiency. A
15 homeless shelter is not considered appropriate housing for any
16 youth receiving child welfare services under this Section. The
17 Department shall continue child welfare services under this
18 Section to any eligible minor until the minor becomes 21 years
19 of age, no longer consents to participate, or achieves
20 self-sufficiency as identified in the minor's service plan. The
21 Department of Children and Family Services shall create clear,
22 readable notice of the rights of former foster youth to child
23 welfare services under this Section and how such services may
24 be obtained. The Department of Children and Family Services and
25 the Department of Human Services shall disseminate this
26 information statewide. The Department shall adopt regulations

1 describing services intended to assist minors in achieving
2 sustainable self-sufficiency as independent adults.

3 (o) The Department shall establish an administrative
4 review and appeal process for children and families who request
5 or receive child welfare services from the Department. Children
6 who are wards of the Department and are placed by private child
7 welfare agencies, and foster families with whom those children
8 are placed, shall be afforded the same procedural and appeal
9 rights as children and families in the case of placement by the
10 Department, including the right to an initial review of a
11 private agency decision by that agency. The Department shall
12 insure that any private child welfare agency, which accepts
13 wards of the Department for placement, affords those rights to
14 children and foster families. The Department shall accept for
15 administrative review and an appeal hearing a complaint made by
16 (i) a child or foster family concerning a decision following an
17 initial review by a private child welfare agency or (ii) a
18 prospective adoptive parent who alleges a violation of
19 subsection (j-5) of this Section. An appeal of a decision
20 concerning a change in the placement of a child shall be
21 conducted in an expedited manner. A court determination that a
22 current foster home placement is necessary and appropriate
23 under Section 2-28 of the Juvenile Court Act of 1987 does not
24 constitute a judicial determination on the merits of an
25 administrative appeal, filed by a former foster parent,
26 involving a change of placement decision.

1 (p) There is hereby created the Department of Children and
2 Family Services Emergency Assistance Fund from which the
3 Department may provide special financial assistance to
4 families which are in economic crisis when such assistance is
5 not available through other public or private sources and the
6 assistance is deemed necessary to prevent dissolution of the
7 family unit or to reunite families which have been separated
8 due to child abuse and neglect. The Department shall establish
9 administrative rules specifying the criteria for determining
10 eligibility for and the amount and nature of assistance to be
11 provided. The Department may also enter into written agreements
12 with private and public social service agencies to provide
13 emergency financial services to families referred by the
14 Department. Special financial assistance payments shall be
15 available to a family no more than once during each fiscal year
16 and the total payments to a family may not exceed \$500 during a
17 fiscal year.

18 (q) The Department may receive and use, in their entirety,
19 for the benefit of children any gift, donation or bequest of
20 money or other property which is received on behalf of such
21 children, or any financial benefits to which such children are
22 or may become entitled while under the jurisdiction or care of
23 the Department.

24 The Department shall set up and administer no-cost,
25 interest-bearing accounts in appropriate financial
26 institutions for children for whom the Department is legally

1 responsible and who have been determined eligible for Veterans'
2 Benefits, Social Security benefits, assistance allotments from
3 the armed forces, court ordered payments, parental voluntary
4 payments, Supplemental Security Income, Railroad Retirement
5 payments, Black Lung benefits, or other miscellaneous
6 payments. Interest earned by each account shall be credited to
7 the account, unless disbursed in accordance with this
8 subsection.

9 In disbursing funds from children's accounts, the
10 Department shall:

11 (1) Establish standards in accordance with State and
12 federal laws for disbursing money from children's
13 accounts. In all circumstances, the Department's
14 "Guardianship Administrator" or his or her designee must
15 approve disbursements from children's accounts. The
16 Department shall be responsible for keeping complete
17 records of all disbursements for each account for any
18 purpose.

19 (2) Calculate on a monthly basis the amounts paid from
20 State funds for the child's board and care, medical care
21 not covered under Medicaid, and social services; and
22 utilize funds from the child's account, as covered by
23 regulation, to reimburse those costs. Monthly,
24 disbursements from all children's accounts, up to 1/12 of
25 \$13,000,000, shall be deposited by the Department into the
26 General Revenue Fund and the balance over 1/12 of

1 \$13,000,000 into the DCFS Children's Services Fund.

2 (3) Maintain any balance remaining after reimbursing
3 for the child's costs of care, as specified in item (2).
4 The balance shall accumulate in accordance with relevant
5 State and federal laws and shall be disbursed to the child
6 or his or her guardian, or to the issuing agency.

7 (r) The Department shall promulgate regulations
8 encouraging all adoption agencies to voluntarily forward to the
9 Department or its agent names and addresses of all persons who
10 have applied for and have been approved for adoption of a
11 hard-to-place or handicapped child and the names of such
12 children who have not been placed for adoption. A list of such
13 names and addresses shall be maintained by the Department or
14 its agent, and coded lists which maintain the confidentiality
15 of the person seeking to adopt the child and of the child shall
16 be made available, without charge, to every adoption agency in
17 the State to assist the agencies in placing such children for
18 adoption. The Department may delegate to an agent its duty to
19 maintain and make available such lists. The Department shall
20 ensure that such agent maintains the confidentiality of the
21 person seeking to adopt the child and of the child.

22 (s) The Department of Children and Family Services may
23 establish and implement a program to reimburse Department and
24 private child welfare agency foster parents licensed by the
25 Department of Children and Family Services for damages
26 sustained by the foster parents as a result of the malicious or

1 negligent acts of foster children, as well as providing third
2 party coverage for such foster parents with regard to actions
3 of foster children to other individuals. Such coverage will be
4 secondary to the foster parent liability insurance policy, if
5 applicable. The program shall be funded through appropriations
6 from the General Revenue Fund, specifically designated for such
7 purposes.

8 (t) The Department shall perform home studies and
9 investigations and shall exercise supervision over visitation
10 as ordered by a court pursuant to the Illinois Marriage and
11 Dissolution of Marriage Act or the Adoption Act only if:

12 (1) an order entered by an Illinois court specifically
13 directs the Department to perform such services; and

14 (2) the court has ordered one or both of the parties to
15 the proceeding to reimburse the Department for its
16 reasonable costs for providing such services in accordance
17 with Department rules, or has determined that neither party
18 is financially able to pay.

19 The Department shall provide written notification to the
20 court of the specific arrangements for supervised visitation
21 and projected monthly costs within 60 days of the court order.
22 The Department shall send to the court information related to
23 the costs incurred except in cases where the court has
24 determined the parties are financially unable to pay. The court
25 may order additional periodic reports as appropriate.

26 (u) In addition to other information that must be provided,

1 whenever the Department places a child with a prospective
2 adoptive parent or parents or in a licensed foster home, group
3 home, child care institution, or in a relative home, the
4 Department shall provide to the prospective adoptive parent or
5 parents or other caretaker:

6 (1) available detailed information concerning the
7 child's educational and health history, copies of
8 immunization records (including insurance and medical card
9 information), a history of the child's previous
10 placements, if any, and reasons for placement changes
11 excluding any information that identifies or reveals the
12 location of any previous caretaker;

13 (2) a copy of the child's portion of the client service
14 plan, including any visitation arrangement, and all
15 amendments or revisions to it as related to the child; and

16 (3) information containing details of the child's
17 individualized educational plan when the child is
18 receiving special education services.

19 The caretaker shall be informed of any known social or
20 behavioral information (including, but not limited to,
21 criminal background, fire setting, perpetuation of sexual
22 abuse, destructive behavior, and substance abuse) necessary to
23 care for and safeguard the children to be placed or currently
24 in the home. The Department may prepare a written summary of
25 the information required by this paragraph, which may be
26 provided to the foster or prospective adoptive parent in

1 advance of a placement. The foster or prospective adoptive
2 parent may review the supporting documents in the child's file
3 in the presence of casework staff. In the case of an emergency
4 placement, casework staff shall at least provide known
5 information verbally, if necessary, and must subsequently
6 provide the information in writing as required by this
7 subsection.

8 The information described in this subsection shall be
9 provided in writing. In the case of emergency placements when
10 time does not allow prior review, preparation, and collection
11 of written information, the Department shall provide such
12 information as it becomes available. Within 10 business days
13 after placement, the Department shall obtain from the
14 prospective adoptive parent or parents or other caretaker a
15 signed verification of receipt of the information provided.
16 Within 10 business days after placement, the Department shall
17 provide to the child's guardian ad litem a copy of the
18 information provided to the prospective adoptive parent or
19 parents or other caretaker. The information provided to the
20 prospective adoptive parent or parents or other caretaker shall
21 be reviewed and approved regarding accuracy at the supervisory
22 level.

23 (u-5) Effective July 1, 1995, only foster care placements
24 licensed as foster family homes pursuant to the Child Care Act
25 of 1969 shall be eligible to receive foster care payments from
26 the Department. Relative caregivers who, as of July 1, 1995,

1 were approved pursuant to approved relative placement rules
2 previously promulgated by the Department at 89 Ill. Adm. Code
3 335 and had submitted an application for licensure as a foster
4 family home may continue to receive foster care payments only
5 until the Department determines that they may be licensed as a
6 foster family home or that their application for licensure is
7 denied or until September 30, 1995, whichever occurs first.

8 (v) The Department shall access criminal history record
9 information as defined in the Illinois Uniform Conviction
10 Information Act and information maintained in the adjudicatory
11 and dispositional record system as defined in Section 2605-355
12 of the Department of State Police Law (20 ILCS 2605/2605-355)
13 if the Department determines the information is necessary to
14 perform its duties under the Abused and Neglected Child
15 Reporting Act, the Child Care Act of 1969, and the Children and
16 Family Services Act. The Department shall provide for
17 interactive computerized communication and processing
18 equipment that permits direct on-line communication with the
19 Department of State Police's central criminal history data
20 repository. The Department shall comply with all certification
21 requirements and provide certified operators who have been
22 trained by personnel from the Department of State Police. In
23 addition, one Office of the Inspector General investigator
24 shall have training in the use of the criminal history
25 information access system and have access to the terminal. The
26 Department of Children and Family Services and its employees

1 shall abide by rules and regulations established by the
2 Department of State Police relating to the access and
3 dissemination of this information.

4 (v-1) Prior to final approval for placement of a child, the
5 Department shall conduct a criminal records background check of
6 the prospective foster or adoptive parent, including
7 fingerprint-based checks of national crime information
8 databases. Final approval for placement shall not be granted if
9 the record check reveals a felony conviction for child abuse or
10 neglect, for spousal abuse, for a crime against children, or
11 for a crime involving violence, including rape, sexual assault,
12 or homicide, but not including other physical assault or
13 battery, or if there is a felony conviction for physical
14 assault, battery, or a drug-related offense committed within
15 the past 5 years.

16 (v-2) Prior to final approval for placement of a child, the
17 Department shall check its child abuse and neglect registry for
18 information concerning prospective foster and adoptive
19 parents, and any adult living in the home. If any prospective
20 foster or adoptive parent or other adult living in the home has
21 resided in another state in the preceding 5 years, the
22 Department shall request a check of that other state's child
23 abuse and neglect registry.

24 (w) Within 120 days of August 20, 1995 (the effective date
25 of Public Act 89-392), the Department shall prepare and submit
26 to the Governor and the General Assembly, a written plan for

1 the development of in-state licensed secure child care
2 facilities that care for children who are in need of secure
3 living arrangements for their health, safety, and well-being.
4 For purposes of this subsection, secure care facility shall
5 mean a facility that is designed and operated to ensure that
6 all entrances and exits from the facility, a building or a
7 distinct part of the building, are under the exclusive control
8 of the staff of the facility, whether or not the child has the
9 freedom of movement within the perimeter of the facility,
10 building, or distinct part of the building. The plan shall
11 include descriptions of the types of facilities that are needed
12 in Illinois; the cost of developing these secure care
13 facilities; the estimated number of placements; the potential
14 cost savings resulting from the movement of children currently
15 out-of-state who are projected to be returned to Illinois; the
16 necessary geographic distribution of these facilities in
17 Illinois; and a proposed timetable for development of such
18 facilities.

19 (x) The Department shall conduct annual credit history
20 checks to determine the financial history of children placed
21 under its guardianship pursuant to the Juvenile Court Act of
22 1987. The Department shall conduct such credit checks starting
23 when a ward turns 12 years old and each year thereafter for the
24 duration of the guardianship as terminated pursuant to the
25 Juvenile Court Act of 1987. The Department shall determine if
26 financial exploitation of the child's personal information has

1 occurred. If financial exploitation appears to have taken place
2 or is presently ongoing, the Department shall notify the proper
3 law enforcement agency, the proper State's Attorney, or the
4 Attorney General.

5 (y) Beginning on the effective date of this amendatory Act
6 of the 96th General Assembly, a child with a disability who
7 receives residential and educational services from the
8 Department shall be eligible to receive transition services in
9 accordance with Article 14 of the School Code from the age of
10 14.5 through age 21, inclusive, notwithstanding the child's
11 residential services arrangement. For purposes of this
12 subsection, "child with a disability" means a child with a
13 disability as defined by the federal Individuals with
14 Disabilities Education Improvement Act of 2004.

15 (z) The Department shall access criminal history record
16 information as defined as "background information" in this
17 subsection and criminal history record information as defined
18 in the Illinois Uniform Conviction Information Act for each
19 Department employee or Department applicant. Each Department
20 employee or Department applicant shall submit his or her
21 fingerprints to the Department of State Police in the form and
22 manner prescribed by the Department of State Police. These
23 fingerprints shall be checked against the fingerprint records
24 now and hereafter filed in the Department of State Police and
25 the Federal Bureau of Investigation criminal history records
26 databases. The Department of State Police shall charge a fee

1 for conducting the criminal history record check, which shall
2 be deposited into the State Police Services Fund and shall not
3 exceed the actual cost of the record check. The Department of
4 State Police shall furnish, pursuant to positive
5 identification, all Illinois conviction information to the
6 Department of Children and Family Services.

7 For purposes of this subsection:

8 "Background information" means all of the following:

9 (i) Upon the request of the Department of Children and
10 Family Services, conviction information obtained from the
11 Department of State Police as a result of a
12 fingerprint-based criminal history records check of the
13 Illinois criminal history records database and the Federal
14 Bureau of Investigation criminal history records database
15 concerning a Department employee or Department applicant.

16 (ii) Information obtained by the Department of
17 Children and Family Services after performing a check of
18 the Department of State Police's Sex Offender Database, as
19 authorized by Section 120 of the Sex Offender Community
20 Notification Law, concerning a Department employee or
21 Department applicant.

22 (iii) Information obtained by the Department of
23 Children and Family Services after performing a check of
24 the Child Abuse and Neglect Tracking System (CANTS)
25 operated and maintained by the Department.

26 "Department employee" means a full-time or temporary

1 employee coded or certified within the State of Illinois
2 Personnel System.

3 "Department applicant" means an individual who has
4 conditional Department full-time or part-time work, a
5 contractor, an individual used to replace or supplement staff,
6 an academic intern, a volunteer in Department offices or on
7 Department contracts, a work-study student, an individual or
8 entity licensed by the Department, or an unlicensed service
9 provider who works as a condition of a contract or an agreement
10 and whose work may bring the unlicensed service provider into
11 contact with Department clients or client records.

12 (Source: P.A. 97-1150, eff. 1-25-13; 98-249, eff. 1-1-14;
13 98-570, eff. 8-27-13; revised 9-4-13.)

14 Section 10. The Juvenile Court Act of 1987 is amended by
15 changing Sections 2-10, 2-27, and 5-710 as follows:

16 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

17 Sec. 2-10. Temporary custody hearing. At the appearance of
18 the minor before the court at the temporary custody hearing,
19 all witnesses present shall be examined before the court in
20 relation to any matter connected with the allegations made in
21 the petition.

22 (1) If the court finds that there is not probable cause to
23 believe that the minor is abused, neglected or dependent it
24 shall release the minor and dismiss the petition.

1 (2) If the court finds that there is probable cause to
2 believe that the minor is abused, neglected or dependent, the
3 court shall state in writing the factual basis supporting its
4 finding and the minor, his or her parent, guardian, custodian
5 and other persons able to give relevant testimony shall be
6 examined before the court. The Department of Children and
7 Family Services shall give testimony concerning indicated
8 reports of abuse and neglect, of which they are aware of
9 through the central registry, involving the minor's parent,
10 guardian or custodian. After such testimony, the court may,
11 consistent with the health, safety and best interests of the
12 minor, enter an order that the minor shall be released upon the
13 request of parent, guardian or custodian if the parent,
14 guardian or custodian appears to take custody. If it is
15 determined that a parent's, guardian's, or custodian's
16 compliance with critical services mitigates the necessity for
17 removal of the minor from his or her home, the court may enter
18 an Order of Protection setting forth reasonable conditions of
19 behavior that a parent, guardian, or custodian must observe for
20 a specified period of time, not to exceed 12 months, without a
21 violation; provided, however, that the 12-month period shall
22 begin anew after any violation. Custodian shall include any
23 agency of the State which has been given custody or wardship of
24 the child. If it is consistent with the health, safety and best
25 interests of the minor, the court may also prescribe shelter
26 care and order that the minor be kept in a suitable place

1 designated by the court or in a shelter care facility
2 designated by the Department of Children and Family Services or
3 a licensed child welfare agency; however, a minor charged with
4 a criminal offense under the Criminal Code of 1961 or the
5 Criminal Code of 2012 or adjudicated delinquent shall not be
6 placed in the custody of or committed to the Department of
7 Children and Family Services by any court, except a minor less
8 than 16 ~~15~~ years of age and committed to the Department of
9 Children and Family Services under Section 5-710 of this Act or
10 a minor for whom an independent basis of abuse, neglect, or
11 dependency exists. An independent basis exists when the
12 allegations or adjudication of abuse, neglect, or dependency do
13 not arise from the same facts, incident, or circumstances which
14 give rise to a charge or adjudication of delinquency.

15 In placing the minor, the Department or other agency shall,
16 to the extent compatible with the court's order, comply with
17 Section 7 of the Children and Family Services Act. In
18 determining the health, safety and best interests of the minor
19 to prescribe shelter care, the court must find that it is a
20 matter of immediate and urgent necessity for the safety and
21 protection of the minor or of the person or property of another
22 that the minor be placed in a shelter care facility or that he
23 or she is likely to flee the jurisdiction of the court, and
24 must further find that reasonable efforts have been made or
25 that, consistent with the health, safety and best interests of
26 the minor, no efforts reasonably can be made to prevent or

1 eliminate the necessity of removal of the minor from his or her
2 home. The court shall require documentation from the Department
3 of Children and Family Services as to the reasonable efforts
4 that were made to prevent or eliminate the necessity of removal
5 of the minor from his or her home or the reasons why no efforts
6 reasonably could be made to prevent or eliminate the necessity
7 of removal. When a minor is placed in the home of a relative,
8 the Department of Children and Family Services shall complete a
9 preliminary background review of the members of the minor's
10 custodian's household in accordance with Section 4.3 of the
11 Child Care Act of 1969 within 90 days of that placement. If the
12 minor is ordered placed in a shelter care facility of the
13 Department of Children and Family Services or a licensed child
14 welfare agency, the court shall, upon request of the
15 appropriate Department or other agency, appoint the Department
16 of Children and Family Services Guardianship Administrator or
17 other appropriate agency executive temporary custodian of the
18 minor and the court may enter such other orders related to the
19 temporary custody as it deems fit and proper, including the
20 provision of services to the minor or his family to ameliorate
21 the causes contributing to the finding of probable cause or to
22 the finding of the existence of immediate and urgent necessity.

23 Where the Department of Children and Family Services
24 Guardianship Administrator is appointed as the executive
25 temporary custodian, the Department of Children and Family
26 Services shall file with the court and serve on the parties a

1 parent-child visiting plan, within 10 days, excluding weekends
2 and holidays, after the appointment. The parent-child visiting
3 plan shall set out the time and place of visits, the frequency
4 of visits, the length of visits, who shall be present at the
5 visits, and where appropriate, the minor's opportunities to
6 have telephone and mail communication with the parents.

7 Where the Department of Children and Family Services
8 Guardianship Administrator is appointed as the executive
9 temporary custodian, and when the child has siblings in care,
10 the Department of Children and Family Services shall file with
11 the court and serve on the parties a sibling placement and
12 contact plan within 10 days, excluding weekends and holidays,
13 after the appointment. The sibling placement and contact plan
14 shall set forth whether the siblings are placed together, and
15 if they are not placed together, what, if any, efforts are
16 being made to place them together. If the Department has
17 determined that it is not in a child's best interest to be
18 placed with a sibling, the Department shall document in the
19 sibling placement and contact plan the basis for its
20 determination. For siblings placed separately, the sibling
21 placement and contact plan shall set the time and place for
22 visits, the frequency of the visits, the length of visits, who
23 shall be present for the visits, and where appropriate, the
24 child's opportunities to have contact with their siblings in
25 addition to in person contact. If the Department determines it
26 is not in the best interest of a sibling to have contact with a

1 sibling, the Department shall document in the sibling placement
2 and contact plan the basis for its determination. The sibling
3 placement and contact plan shall specify a date for development
4 of the Sibling Contact Support Plan, under subsection (f) of
5 Section 7.4 of the Children and Family Services Act, and shall
6 remain in effect until the Sibling Contact Support Plan is
7 developed.

8 For good cause, the court may waive the requirement to
9 file the parent-child visiting plan or the sibling placement
10 and contact plan, or extend the time for filing either plan.
11 Any party may, by motion, request the court to review the
12 parent-child visiting plan to determine whether it is
13 reasonably calculated to expeditiously facilitate the
14 achievement of the permanency goal. A party may, by motion,
15 request the court to review the parent-child visiting plan or
16 the sibling placement and contact plan to determine whether it
17 is consistent with the minor's best interest. The court may
18 refer the parties to mediation where available. The frequency,
19 duration, and locations of visitation shall be measured by the
20 needs of the child and family, and not by the convenience of
21 Department personnel. Child development principles shall be
22 considered by the court in its analysis of how frequent
23 visitation should be, how long it should last, where it should
24 take place, and who should be present. If upon motion of the
25 party to review either plan and after receiving evidence, the
26 court determines that the parent-child visiting plan is not

1 reasonably calculated to expeditiously facilitate the
2 achievement of the permanency goal or that the restrictions
3 placed on parent-child contact or sibling placement or contact
4 are contrary to the child's best interests, the court shall put
5 in writing the factual basis supporting the determination and
6 enter specific findings based on the evidence. The court shall
7 enter an order for the Department to implement changes to the
8 parent-child visiting plan or sibling placement or contact
9 plan, consistent with the court's findings. At any stage of
10 proceeding, any party may by motion request the court to enter
11 any orders necessary to implement the parent-child visiting
12 plan, sibling placement or contact plan or subsequently
13 developed Sibling Contact Support Plan. Nothing under this
14 subsection (2) shall restrict the court from granting
15 discretionary authority to the Department to increase
16 opportunities for additional parent-child contacts or sibling
17 contacts, without further court orders. Nothing in this
18 subsection (2) shall restrict the Department from immediately
19 restricting or terminating parent-child contact or sibling
20 contacts, without either amending the parent-child visiting
21 plan or the sibling contact plan or obtaining a court order,
22 where the Department or its assigns reasonably believe that
23 continuation of the contact, as set out in the plan, would be
24 contrary to the child's health, safety, and welfare. The
25 Department shall file with the court and serve on the parties
26 any amendments to the plan within 10 days, excluding weekends

1 and holidays, of the change of the visitation.

2 Acceptance of services shall not be considered an admission
3 of any allegation in a petition made pursuant to this Act, nor
4 may a referral of services be considered as evidence in any
5 proceeding pursuant to this Act, except where the issue is
6 whether the Department has made reasonable efforts to reunite
7 the family. In making its findings that it is consistent with
8 the health, safety and best interests of the minor to prescribe
9 shelter care, the court shall state in writing (i) the factual
10 basis supporting its findings concerning the immediate and
11 urgent necessity for the protection of the minor or of the
12 person or property of another and (ii) the factual basis
13 supporting its findings that reasonable efforts were made to
14 prevent or eliminate the removal of the minor from his or her
15 home or that no efforts reasonably could be made to prevent or
16 eliminate the removal of the minor from his or her home. The
17 parents, guardian, custodian, temporary custodian and minor
18 shall each be furnished a copy of such written findings. The
19 temporary custodian shall maintain a copy of the court order
20 and written findings in the case record for the child. The
21 order together with the court's findings of fact in support
22 thereof shall be entered of record in the court.

23 Once the court finds that it is a matter of immediate and
24 urgent necessity for the protection of the minor that the minor
25 be placed in a shelter care facility, the minor shall not be
26 returned to the parent, custodian or guardian until the court

1 finds that such placement is no longer necessary for the
2 protection of the minor.

3 If the child is placed in the temporary custody of the
4 Department of Children and Family Services for his or her
5 protection, the court shall admonish the parents, guardian,
6 custodian or responsible relative that the parents must
7 cooperate with the Department of Children and Family Services,
8 comply with the terms of the service plans, and correct the
9 conditions which require the child to be in care, or risk
10 termination of their parental rights.

11 (3) If prior to the shelter care hearing for a minor
12 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party is
13 unable to serve notice on the party respondent, the shelter
14 care hearing may proceed ex-parte. A shelter care order from an
15 ex-parte hearing shall be endorsed with the date and hour of
16 issuance and shall be filed with the clerk's office and entered
17 of record. The order shall expire after 10 days from the time
18 it is issued unless before its expiration it is renewed, at a
19 hearing upon appearance of the party respondent, or upon an
20 affidavit of the moving party as to all diligent efforts to
21 notify the party respondent by notice as herein prescribed. The
22 notice prescribed shall be in writing and shall be personally
23 delivered to the minor or the minor's attorney and to the last
24 known address of the other person or persons entitled to
25 notice. The notice shall also state the nature of the
26 allegations, the nature of the order sought by the State,

1 including whether temporary custody is sought, and the
 2 consequences of failure to appear and shall contain a notice
 3 that the parties will not be entitled to further written
 4 notices or publication notices of proceedings in this case,
 5 including the filing of an amended petition or a motion to
 6 terminate parental rights, except as required by Supreme Court
 7 Rule 11; and shall explain the right of the parties and the
 8 procedures to vacate or modify a shelter care order as provided
 9 in this Section. The notice for a shelter care hearing shall be
 10 substantially as follows:

11 NOTICE TO PARENTS AND CHILDREN
 12 OF SHELTER CARE HEARING

13 On at, before the Honorable
 14, (address:), the State
 15 of Illinois will present evidence (1) that (name of child
 16 or children) are abused, neglected
 17 or dependent for the following reasons:
 18 and (2)
 19 whether there is "immediate and urgent necessity" to remove
 20 the child or children from the responsible relative.

21 YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN
 22 PLACEMENT of the child or children in foster care until a
 23 trial can be held. A trial may not be held for up to 90
 24 days. You will not be entitled to further notices of
 25 proceedings in this case, including the filing of an
 26 amended petition or a motion to terminate parental rights.

1 At the shelter care hearing, parents have the following
2 rights:

3 1. To ask the court to appoint a lawyer if they
4 cannot afford one.

5 2. To ask the court to continue the hearing to
6 allow them time to prepare.

7 3. To present evidence concerning:

8 a. Whether or not the child or children were
9 abused, neglected or dependent.

10 b. Whether or not there is "immediate and
11 urgent necessity" to remove the child from home
12 (including: their ability to care for the child,
13 conditions in the home, alternative means of
14 protecting the child other than removal).

15 c. The best interests of the child.

16 4. To cross examine the State's witnesses.

17 The Notice for rehearings shall be substantially as
18 follows:

19 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
20 TO REHEARING ON TEMPORARY CUSTODY

21 If you were not present at and did not have adequate
22 notice of the Shelter Care Hearing at which temporary
23 custody of was awarded to
24, you have the right to request a full
25 rehearing on whether the State should have temporary

1 custody of To request this rehearing,
2 you must file with the Clerk of the Juvenile Court
3 (address):, in person or by
4 mailing a statement (affidavit) setting forth the
5 following:

6 1. That you were not present at the shelter care
7 hearing.

8 2. That you did not get adequate notice (explaining
9 how the notice was inadequate).

10 3. Your signature.

11 4. Signature must be notarized.

12 The rehearing should be scheduled within 48 hours of
13 your filing this affidavit.

14 At the rehearing, your rights are the same as at the
15 initial shelter care hearing. The enclosed notice explains
16 those rights.

17 At the Shelter Care Hearing, children have the
18 following rights:

19 1. To have a guardian ad litem appointed.

20 2. To be declared competent as a witness and to
21 present testimony concerning:

22 a. Whether they are abused, neglected or
23 dependent.

24 b. Whether there is "immediate and urgent
25 necessity" to be removed from home.

26 c. Their best interests.

1 3. To cross examine witnesses for other parties.

2 4. To obtain an explanation of any proceedings and
3 orders of the court.

4 (4) If the parent, guardian, legal custodian, responsible
5 relative, minor age 8 or over, or counsel of the minor did not
6 have actual notice of or was not present at the shelter care
7 hearing, he or she may file an affidavit setting forth these
8 facts, and the clerk shall set the matter for rehearing not
9 later than 48 hours, excluding Sundays and legal holidays,
10 after the filing of the affidavit. At the rehearing, the court
11 shall proceed in the same manner as upon the original hearing.

12 (5) Only when there is reasonable cause to believe that the
13 minor taken into custody is a person described in subsection
14 (3) of Section 5-105 may the minor be kept or detained in a
15 detention home or county or municipal jail. This Section shall
16 in no way be construed to limit subsection (6).

17 (6) No minor under 16 years of age may be confined in a
18 jail or place ordinarily used for the confinement of prisoners
19 in a police station. Minors under 18 years of age must be kept
20 separate from confined adults and may not at any time be kept
21 in the same cell, room, or yard with adults confined pursuant
22 to the criminal law.

23 (7) If the minor is not brought before a judicial officer
24 within the time period as specified in Section 2-9, the minor
25 must immediately be released from custody.

26 (8) If neither the parent, guardian or custodian appears

1 within 24 hours to take custody of a minor released upon
2 request pursuant to subsection (2) of this Section, then the
3 clerk of the court shall set the matter for rehearing not later
4 than 7 days after the original order and shall issue a summons
5 directed to the parent, guardian or custodian to appear. At the
6 same time the probation department shall prepare a report on
7 the minor. If a parent, guardian or custodian does not appear
8 at such rehearing, the judge may enter an order prescribing
9 that the minor be kept in a suitable place designated by the
10 Department of Children and Family Services or a licensed child
11 welfare agency.

12 (9) Notwithstanding any other provision of this Section any
13 interested party, including the State, the temporary
14 custodian, an agency providing services to the minor or family
15 under a service plan pursuant to Section 8.2 of the Abused and
16 Neglected Child Reporting Act, foster parent, or any of their
17 representatives, on notice to all parties entitled to notice,
18 may file a motion that it is in the best interests of the minor
19 to modify or vacate a temporary custody order on any of the
20 following grounds:

21 (a) It is no longer a matter of immediate and urgent
22 necessity that the minor remain in shelter care; or

23 (b) There is a material change in the circumstances of
24 the natural family from which the minor was removed and the
25 child can be cared for at home without endangering the
26 child's health or safety; or

1 (c) A person not a party to the alleged abuse, neglect
2 or dependency, including a parent, relative or legal
3 guardian, is capable of assuming temporary custody of the
4 minor; or

5 (d) Services provided by the Department of Children and
6 Family Services or a child welfare agency or other service
7 provider have been successful in eliminating the need for
8 temporary custody and the child can be cared for at home
9 without endangering the child's health or safety.

10 In ruling on the motion, the court shall determine whether
11 it is consistent with the health, safety and best interests of
12 the minor to modify or vacate a temporary custody order.

13 The clerk shall set the matter for hearing not later than
14 14 days after such motion is filed. In the event that the court
15 modifies or vacates a temporary custody order but does not
16 vacate its finding of probable cause, the court may order that
17 appropriate services be continued or initiated in behalf of the
18 minor and his or her family.

19 (10) When the court finds or has found that there is
20 probable cause to believe a minor is an abused minor as
21 described in subsection (2) of Section 2-3 and that there is an
22 immediate and urgent necessity for the abused minor to be
23 placed in shelter care, immediate and urgent necessity shall be
24 presumed for any other minor residing in the same household as
25 the abused minor provided:

26 (a) Such other minor is the subject of an abuse or

1 neglect petition pending before the court; and

2 (b) A party to the petition is seeking shelter care for
3 such other minor.

4 Once the presumption of immediate and urgent necessity has
5 been raised, the burden of demonstrating the lack of immediate
6 and urgent necessity shall be on any party that is opposing
7 shelter care for the other minor.

8 (11) The changes made to this Section by Public Act 98-61
9 ~~this amendatory Act of the 98th General Assembly~~ apply to a
10 minor who has been arrested or taken into custody on or after
11 January 1, 2014 (the effective date of Public Act 98-61) ~~this~~
12 ~~amendatory Act.~~

13 (Source: P.A. 97-1076, eff. 8-24-12; 97-1150, eff. 1-25-13;
14 98-61, eff. 1-1-14; revised 11-22-13.)

15 (705 ILCS 405/2-27) (from Ch. 37, par. 802-27)

16 Sec. 2-27. Placement; legal custody or guardianship.

17 (1) If the court determines and puts in writing the factual
18 basis supporting the determination of whether the parents,
19 guardian, or legal custodian of a minor adjudged a ward of the
20 court are unfit or are unable, for some reason other than
21 financial circumstances alone, to care for, protect, train or
22 discipline the minor or are unwilling to do so, and that the
23 health, safety, and best interest of the minor will be
24 jeopardized if the minor remains in the custody of his or her
25 parents, guardian or custodian, the court may at this hearing

1 and at any later point:

2 (a) place the minor in the custody of a suitable
3 relative or other person as legal custodian or guardian;

4 (a-5) with the approval of the Department of Children
5 and Family Services, place the minor in the subsidized
6 guardianship of a suitable relative or other person as
7 legal guardian; "subsidized guardianship" means a private
8 guardianship arrangement for children for whom the
9 permanency goals of return home and adoption have been
10 ruled out and who meet the qualifications for subsidized
11 guardianship as defined by the Department of Children and
12 Family Services in administrative rules;

13 (b) place the minor under the guardianship of a
14 probation officer;

15 (c) commit the minor to an agency for care or
16 placement, except an institution under the authority of the
17 Department of Corrections or of the Department of Children
18 and Family Services;

19 (d) commit the minor to the Department of Children and
20 Family Services for care and service; however, a minor
21 charged with a criminal offense under the Criminal Code of
22 1961 or the Criminal Code of 2012 or adjudicated delinquent
23 shall not be placed in the custody of or committed to the
24 Department of Children and Family Services by any court,
25 except (i) a minor less than 16 ~~15~~ years of age and
26 committed to the Department of Children and Family Services

1 under Section 5-710 of this Act, (ii) a minor for whom an
2 independent basis of abuse, neglect, or dependency exists,
3 or (iii) a minor for whom the court has granted a
4 supplemental petition to reinstate wardship pursuant to
5 subsection (2) of Section 2-33 of this Act. An independent
6 basis exists when the allegations or adjudication of abuse,
7 neglect, or dependency do not arise from the same facts,
8 incident, or circumstances which give rise to a charge or
9 adjudication of delinquency. The Department shall be given
10 due notice of the pendency of the action and the
11 Guardianship Administrator of the Department of Children
12 and Family Services shall be appointed guardian of the
13 person of the minor. Whenever the Department seeks to
14 discharge a minor from its care and service, the
15 Guardianship Administrator shall petition the court for an
16 order terminating guardianship. The Guardianship
17 Administrator may designate one or more other officers of
18 the Department, appointed as Department officers by
19 administrative order of the Department Director,
20 authorized to affix the signature of the Guardianship
21 Administrator to documents affecting the guardian-ward
22 relationship of children for whom he or she has been
23 appointed guardian at such times as he or she is unable to
24 perform the duties of his or her office. The signature
25 authorization shall include but not be limited to matters
26 of consent of marriage, enlistment in the armed forces,

1 legal proceedings, adoption, major medical and surgical
2 treatment and application for driver's license. Signature
3 authorizations made pursuant to the provisions of this
4 paragraph shall be filed with the Secretary of State and
5 the Secretary of State shall provide upon payment of the
6 customary fee, certified copies of the authorization to any
7 court or individual who requests a copy.

8 (1.5) In making a determination under this Section, the
9 court shall also consider whether, based on health, safety, and
10 the best interests of the minor,

11 (a) appropriate services aimed at family preservation
12 and family reunification have been unsuccessful in
13 rectifying the conditions that have led to a finding of
14 unfitness or inability to care for, protect, train, or
15 discipline the minor, or

16 (b) no family preservation or family reunification
17 services would be appropriate,

18 and if the petition or amended petition contained an allegation
19 that the parent is an unfit person as defined in subdivision
20 (D) of Section 1 of the Adoption Act, and the order of
21 adjudication recites that parental unfitness was established
22 by clear and convincing evidence, the court shall, when
23 appropriate and in the best interest of the minor, enter an
24 order terminating parental rights and appointing a guardian
25 with power to consent to adoption in accordance with Section
26 2-29.

1 When making a placement, the court, wherever possible,
2 shall require the Department of Children and Family Services to
3 select a person holding the same religious belief as that of
4 the minor or a private agency controlled by persons of like
5 religious faith of the minor and shall require the Department
6 to otherwise comply with Section 7 of the Children and Family
7 Services Act in placing the child. In addition, whenever
8 alternative plans for placement are available, the court shall
9 ascertain and consider, to the extent appropriate in the
10 particular case, the views and preferences of the minor.

11 (2) When a minor is placed with a suitable relative or
12 other person pursuant to item (a) of subsection (1), the court
13 shall appoint him or her the legal custodian or guardian of the
14 person of the minor. When a minor is committed to any agency,
15 the court shall appoint the proper officer or representative
16 thereof as legal custodian or guardian of the person of the
17 minor. Legal custodians and guardians of the person of the
18 minor have the respective rights and duties set forth in
19 subsection (9) of Section 1-3 except as otherwise provided by
20 order of court; but no guardian of the person may consent to
21 adoption of the minor unless that authority is conferred upon
22 him or her in accordance with Section 2-29. An agency whose
23 representative is appointed guardian of the person or legal
24 custodian of the minor may place the minor in any child care
25 facility, but the facility must be licensed under the Child
26 Care Act of 1969 or have been approved by the Department of

1 Children and Family Services as meeting the standards
2 established for such licensing. No agency may place a minor
3 adjudicated under Sections 2-3 or 2-4 in a child care facility
4 unless the placement is in compliance with the rules and
5 regulations for placement under this Section promulgated by the
6 Department of Children and Family Services under Section 5 of
7 the Children and Family Services Act. Like authority and
8 restrictions shall be conferred by the court upon any probation
9 officer who has been appointed guardian of the person of a
10 minor.

11 (3) No placement by any probation officer or agency whose
12 representative is appointed guardian of the person or legal
13 custodian of a minor may be made in any out of State child care
14 facility unless it complies with the Interstate Compact on the
15 Placement of Children. Placement with a parent, however, is not
16 subject to that Interstate Compact.

17 (4) The clerk of the court shall issue to the legal
18 custodian or guardian of the person a certified copy of the
19 order of court, as proof of his authority. No other process is
20 necessary as authority for the keeping of the minor.

21 (5) Custody or guardianship granted under this Section
22 continues until the court otherwise directs, but not after the
23 minor reaches the age of 19 years except as set forth in
24 Section 2-31, or if the minor was previously committed to the
25 Department of Children and Family Services for care and service
26 and the court has granted a supplemental petition to reinstate

1 wardship pursuant to subsection (2) of Section 2-33.

2 (6) (Blank).

3 (Source: P.A. 96-581, eff. 1-1-10; 97-1150, eff. 1-25-13.)

4 (705 ILCS 405/5-710)

5 Sec. 5-710. Kinds of sentencing orders.

6 (1) The following kinds of sentencing orders may be made in
7 respect of wards of the court:

8 (a) Except as provided in Sections 5-805, 5-810, 5-815,
9 a minor who is found guilty under Section 5-620 may be:

10 (i) put on probation or conditional discharge and
11 released to his or her parents, guardian or legal
12 custodian, provided, however, that any such minor who
13 is not committed to the Department of Juvenile Justice
14 under this subsection and who is found to be a
15 delinquent for an offense which is first degree murder,
16 a Class X felony, or a forcible felony shall be placed
17 on probation;

18 (ii) placed in accordance with Section 5-740, with
19 or without also being put on probation or conditional
20 discharge;

21 (iii) required to undergo a substance abuse
22 assessment conducted by a licensed provider and
23 participate in the indicated clinical level of care;

24 (iv) placed in the guardianship of the Department
25 of Children and Family Services, but only if the

1 delinquent minor is under 16 ~~15~~ years of age or,
2 pursuant to Article II of this Act, a minor for whom an
3 independent basis of abuse, neglect, or dependency
4 exists. An independent basis exists when the
5 allegations or adjudication of abuse, neglect, or
6 dependency do not arise from the same facts, incident,
7 or circumstances which give rise to a charge or
8 adjudication of delinquency;

9 (v) placed in detention for a period not to exceed
10 30 days, either as the exclusive order of disposition
11 or, where appropriate, in conjunction with any other
12 order of disposition issued under this paragraph,
13 provided that any such detention shall be in a juvenile
14 detention home and the minor so detained shall be 10
15 years of age or older. However, the 30-day limitation
16 may be extended by further order of the court for a
17 minor under age 15 committed to the Department of
18 Children and Family Services if the court finds that
19 the minor is a danger to himself or others. The minor
20 shall be given credit on the sentencing order of
21 detention for time spent in detention under Sections
22 5-501, 5-601, 5-710, or 5-720 of this Article as a
23 result of the offense for which the sentencing order
24 was imposed. The court may grant credit on a sentencing
25 order of detention entered under a violation of
26 probation or violation of conditional discharge under

1 Section 5-720 of this Article for time spent in
2 detention before the filing of the petition alleging
3 the violation. A minor shall not be deprived of credit
4 for time spent in detention before the filing of a
5 violation of probation or conditional discharge
6 alleging the same or related act or acts. The
7 limitation that the minor shall only be placed in a
8 juvenile detention home does not apply as follows:

9 Persons 18 years of age and older who have a
10 petition of delinquency filed against them may be
11 confined in an adult detention facility. In making a
12 determination whether to confine a person 18 years of
13 age or older who has a petition of delinquency filed
14 against the person, these factors, among other
15 matters, shall be considered:

16 (A) the age of the person;

17 (B) any previous delinquent or criminal
18 history of the person;

19 (C) any previous abuse or neglect history of
20 the person;

21 (D) any mental health history of the person;

22 and

23 (E) any educational history of the person;

24 (vi) ordered partially or completely emancipated
25 in accordance with the provisions of the Emancipation
26 of Minors Act;

1 (vii) subject to having his or her driver's license
2 or driving privileges suspended for such time as
3 determined by the court but only until he or she
4 attains 18 years of age;

5 (viii) put on probation or conditional discharge
6 and placed in detention under Section 3-6039 of the
7 Counties Code for a period not to exceed the period of
8 incarceration permitted by law for adults found guilty
9 of the same offense or offenses for which the minor was
10 adjudicated delinquent, and in any event no longer than
11 upon attainment of age 21; this subdivision (viii)
12 notwithstanding any contrary provision of the law;

13 (ix) ordered to undergo a medical or other
14 procedure to have a tattoo symbolizing allegiance to a
15 street gang removed from his or her body; or

16 (x) placed in electronic home detention under Part
17 7A of this Article.

18 (b) A minor found to be guilty may be committed to the
19 Department of Juvenile Justice under Section 5-750 if the
20 minor is 13 years of age or older, provided that the
21 commitment to the Department of Juvenile Justice shall be
22 made only if a term of incarceration is permitted by law
23 for adults found guilty of the offense for which the minor
24 was adjudicated delinquent. The time during which a minor
25 is in custody before being released upon the request of a
26 parent, guardian or legal custodian shall be considered as

1 time spent in detention.

2 (c) When a minor is found to be guilty for an offense
3 which is a violation of the Illinois Controlled Substances
4 Act, the Cannabis Control Act, or the Methamphetamine
5 Control and Community Protection Act and made a ward of the
6 court, the court may enter a disposition order requiring
7 the minor to undergo assessment, counseling or treatment in
8 a substance abuse program approved by the Department of
9 Human Services.

10 (2) Any sentencing order other than commitment to the
11 Department of Juvenile Justice may provide for protective
12 supervision under Section 5-725 and may include an order of
13 protection under Section 5-730.

14 (3) Unless the sentencing order expressly so provides, it
15 does not operate to close proceedings on the pending petition,
16 but is subject to modification until final closing and
17 discharge of the proceedings under Section 5-750.

18 (4) In addition to any other sentence, the court may order
19 any minor found to be delinquent to make restitution, in
20 monetary or non-monetary form, under the terms and conditions
21 of Section 5-5-6 of the Unified Code of Corrections, except
22 that the "presentencing hearing" referred to in that Section
23 shall be the sentencing hearing for purposes of this Section.
24 The parent, guardian or legal custodian of the minor may be
25 ordered by the court to pay some or all of the restitution on
26 the minor's behalf, pursuant to the Parental Responsibility

1 Law. The State's Attorney is authorized to act on behalf of any
2 victim in seeking restitution in proceedings under this
3 Section, up to the maximum amount allowed in Section 5 of the
4 Parental Responsibility Law.

5 (5) Any sentencing order where the minor is committed or
6 placed in accordance with Section 5-740 shall provide for the
7 parents or guardian of the estate of the minor to pay to the
8 legal custodian or guardian of the person of the minor such
9 sums as are determined by the custodian or guardian of the
10 person of the minor as necessary for the minor's needs. The
11 payments may not exceed the maximum amounts provided for by
12 Section 9.1 of the Children and Family Services Act.

13 (6) Whenever the sentencing order requires the minor to
14 attend school or participate in a program of training, the
15 truant officer or designated school official shall regularly
16 report to the court if the minor is a chronic or habitual
17 truant under Section 26-2a of the School Code. Notwithstanding
18 any other provision of this Act, in instances in which
19 educational services are to be provided to a minor in a
20 residential facility where the minor has been placed by the
21 court, costs incurred in the provision of those educational
22 services must be allocated based on the requirements of the
23 School Code.

24 (7) In no event shall a guilty minor be committed to the
25 Department of Juvenile Justice for a period of time in excess
26 of that period for which an adult could be committed for the

1 same act.

2 (8) A minor found to be guilty for reasons that include a
3 violation of Section 21-1.3 of the Criminal Code of 1961 or the
4 Criminal Code of 2012 shall be ordered to perform community
5 service for not less than 30 and not more than 120 hours, if
6 community service is available in the jurisdiction. The
7 community service shall include, but need not be limited to,
8 the cleanup and repair of the damage that was caused by the
9 violation or similar damage to property located in the
10 municipality or county in which the violation occurred. The
11 order may be in addition to any other order authorized by this
12 Section.

13 (8.5) A minor found to be guilty for reasons that include a
14 violation of Section 3.02 or Section 3.03 of the Humane Care
15 for Animals Act or paragraph (d) of subsection (1) of Section
16 21-1 of the Criminal Code of 1961 or paragraph (4) of
17 subsection (a) of Section 21-1 of the Criminal Code of 2012
18 shall be ordered to undergo medical or psychiatric treatment
19 rendered by a psychiatrist or psychological treatment rendered
20 by a clinical psychologist. The order may be in addition to any
21 other order authorized by this Section.

22 (9) In addition to any other sentencing order, the court
23 shall order any minor found to be guilty for an act which would
24 constitute, predatory criminal sexual assault of a child,
25 aggravated criminal sexual assault, criminal sexual assault,
26 aggravated criminal sexual abuse, or criminal sexual abuse if

1 committed by an adult to undergo medical testing to determine
2 whether the defendant has any sexually transmissible disease
3 including a test for infection with human immunodeficiency
4 virus (HIV) or any other identified causative agency of
5 acquired immunodeficiency syndrome (AIDS). Any medical test
6 shall be performed only by appropriately licensed medical
7 practitioners and may include an analysis of any bodily fluids
8 as well as an examination of the minor's person. Except as
9 otherwise provided by law, the results of the test shall be
10 kept strictly confidential by all medical personnel involved in
11 the testing and must be personally delivered in a sealed
12 envelope to the judge of the court in which the sentencing
13 order was entered for the judge's inspection in camera. Acting
14 in accordance with the best interests of the victim and the
15 public, the judge shall have the discretion to determine to
16 whom the results of the testing may be revealed. The court
17 shall notify the minor of the results of the test for infection
18 with the human immunodeficiency virus (HIV). The court shall
19 also notify the victim if requested by the victim, and if the
20 victim is under the age of 15 and if requested by the victim's
21 parents or legal guardian, the court shall notify the victim's
22 parents or the legal guardian, of the results of the test for
23 infection with the human immunodeficiency virus (HIV). The
24 court shall provide information on the availability of HIV
25 testing and counseling at the Department of Public Health
26 facilities to all parties to whom the results of the testing

1 are revealed. The court shall order that the cost of any test
2 shall be paid by the county and may be taxed as costs against
3 the minor.

4 (10) When a court finds a minor to be guilty the court
5 shall, before entering a sentencing order under this Section,
6 make a finding whether the offense committed either: (a) was
7 related to or in furtherance of the criminal activities of an
8 organized gang or was motivated by the minor's membership in or
9 allegiance to an organized gang, or (b) involved a violation of
10 subsection (a) of Section 12-7.1 of the Criminal Code of 1961
11 or the Criminal Code of 2012, a violation of any Section of
12 Article 24 of the Criminal Code of 1961 or the Criminal Code of
13 2012, or a violation of any statute that involved the wrongful
14 use of a firearm. If the court determines the question in the
15 affirmative, and the court does not commit the minor to the
16 Department of Juvenile Justice, the court shall order the minor
17 to perform community service for not less than 30 hours nor
18 more than 120 hours, provided that community service is
19 available in the jurisdiction and is funded and approved by the
20 county board of the county where the offense was committed. The
21 community service shall include, but need not be limited to,
22 the cleanup and repair of any damage caused by a violation of
23 Section 21-1.3 of the Criminal Code of 1961 or the Criminal
24 Code of 2012 and similar damage to property located in the
25 municipality or county in which the violation occurred. When
26 possible and reasonable, the community service shall be

1 performed in the minor's neighborhood. This order shall be in
2 addition to any other order authorized by this Section except
3 for an order to place the minor in the custody of the
4 Department of Juvenile Justice. For the purposes of this
5 Section, "organized gang" has the meaning ascribed to it in
6 Section 10 of the Illinois Streetgang Terrorism Omnibus
7 Prevention Act.

8 (11) If the court determines that the offense was committed
9 in furtherance of the criminal activities of an organized gang,
10 as provided in subsection (10), and that the offense involved
11 the operation or use of a motor vehicle or the use of a
12 driver's license or permit, the court shall notify the
13 Secretary of State of that determination and of the period for
14 which the minor shall be denied driving privileges. If, at the
15 time of the determination, the minor does not hold a driver's
16 license or permit, the court shall provide that the minor shall
17 not be issued a driver's license or permit until his or her
18 18th birthday. If the minor holds a driver's license or permit
19 at the time of the determination, the court shall provide that
20 the minor's driver's license or permit shall be revoked until
21 his or her 21st birthday, or until a later date or occurrence
22 determined by the court. If the minor holds a driver's license
23 at the time of the determination, the court may direct the
24 Secretary of State to issue the minor a judicial driving
25 permit, also known as a JDP. The JDP shall be subject to the
26 same terms as a JDP issued under Section 6-206.1 of the

1 Illinois Vehicle Code, except that the court may direct that
2 the JDP be effective immediately.

3 (12) If a minor is found to be guilty of a violation of
4 subsection (a-7) of Section 1 of the Prevention of Tobacco Use
5 by Minors Act, the court may, in its discretion, and upon
6 recommendation by the State's Attorney, order that minor and
7 his or her parents or legal guardian to attend a smoker's
8 education or youth diversion program as defined in that Act if
9 that program is available in the jurisdiction where the
10 offender resides. Attendance at a smoker's education or youth
11 diversion program shall be time-credited against any community
12 service time imposed for any first violation of subsection
13 (a-7) of Section 1 of that Act. In addition to any other
14 penalty that the court may impose for a violation of subsection
15 (a-7) of Section 1 of that Act, the court, upon request by the
16 State's Attorney, may in its discretion require the offender to
17 remit a fee for his or her attendance at a smoker's education
18 or youth diversion program.

19 For purposes of this Section, "smoker's education program"
20 or "youth diversion program" includes, but is not limited to, a
21 seminar designed to educate a person on the physical and
22 psychological effects of smoking tobacco products and the
23 health consequences of smoking tobacco products that can be
24 conducted with a locality's youth diversion program.

25 In addition to any other penalty that the court may impose
26 under this subsection (12):

1 (a) If a minor violates subsection (a-7) of Section 1
2 of the Prevention of Tobacco Use by Minors Act, the court
3 may impose a sentence of 15 hours of community service or a
4 fine of \$25 for a first violation.

5 (b) A second violation by a minor of subsection (a-7)
6 of Section 1 of that Act that occurs within 12 months after
7 the first violation is punishable by a fine of \$50 and 25
8 hours of community service.

9 (c) A third or subsequent violation by a minor of
10 subsection (a-7) of Section 1 of that Act that occurs
11 within 12 months after the first violation is punishable by
12 a \$100 fine and 30 hours of community service.

13 (d) Any second or subsequent violation not within the
14 12-month time period after the first violation is
15 punishable as provided for a first violation.

16 (Source: P.A. 97-1150, eff. 1-25-13; 98-536, eff. 8-23-13.)".